

LOWER MANHATTAN DEVELOPMENT CORPORATION

Meeting of the Directors

Conducted Via Teleconference

December 17, 2020

MINUTES

**In Attendance
Directors**

Holly Leicht, Chair
Alicia Glen
Catherine McVay Hughes
Thomas Johnson
Joshua Kraus
Pedram Mahdavi
Mehul Patel
Carl Weisbrod

Staff Attending:

**For Lower Manhattan Development
Corporation:**

Daniel Ciniello, President
Stephen Konopko, Vice President, Internal Audit
Debbie Royce, Corporate Secretary
Goldie Weixel, Senior Managing Attorney – ESD

The meeting of the Lower Manhattan Development Corporation (“LMDC”) was called to order at 11:06 a.m. It was noted for the record that notice to the public and news media of the time and place of the meeting had been given in compliance with the New York State Open Meetings Law.

The Chair noted for the record that due to the public health concerns and as authorized by an Executive Order of Governor Cuomo, this meeting would be conducted by teleconference. The Chair also noted for the record that the public was given the opportunity to comment on the Agenda items by submitting written comments on or before 5:00 p.m. yesterday to publiccomment@renewnyc.com and that no comments were submitted regarding the Agenda.

Before beginning with the substantive portion of the meeting the Chair welcomed the newest member of the Board Joshua Kraus, of the Mayor’s Office of Capital Development, to the meeting. She noted that Mr. Kraus is replacing Dominic Williams on the Board who she thanked for his years of service.

The Chair then asked the Directors whether anyone had any potential conflicts of interest with respect to any of the items on the proposed Agenda.

Hearing none, the Chair called for a motion to approve the Minutes of the Directors’ meeting of September 22, 2020. Noting no corrections, and upon motion duly made and seconded, the following resolution was unanimously adopted:

Approval of Minutes

RESOLVED, that the Minutes of the meetings of the Corporation held on September 22, 2020, as presented to this meeting, are hereby approved and all actions taken by the Corporation’s employees, officers or Directors in furtherance of the matters referred to therein are hereby ratified and approved as actions of the Corporation.

* * *

The Chair then called on the Corporation’s Audit and Finance Committee Chair, Director Tom Johnson, to provide a report on the recent Audit and Finance Committee Meeting for the Directors information.

Committee Chair Johnson reported that at its November 18th meeting, the Audit and Finance Committee (the “Committee”) received an update on the Site 5 RFP and reviewed the item presented today to the Board for consideration. He advised that the Committee reviewed, discussed and fully supports the proposed action plan and subrecipient agreement amendments that would provide Grand Street Settlement, Inc. with an additional \$1.6 million to assist in the completion of its ongoing renovation project.

Committee Chair Johnson advised that the Committee met with EFPR representative Brent Jensen, the Corporation’s External Auditor, regarding the audit of LMDC’s financial statements, internal controls and compliance with federal requirements. He noted that once again, no issues or concerns were identified during the audit, and that the Committee was very pleased with the results.

The Chair thanked Committee Chair Johnson for his report and also thanked Mr. Ciniello and Mr. Konopko for their work in ensuring firm corporate administration and for continuously delivering clean audits.

The Chair then called on Mr. Ciniello to present the next item on the Agenda, a request to amend two action plans and the Subrecipient Agreement with Grand Street Settlement, Inc.

Mr. Ciniello stated the Corporation was requesting authorization to amend Partial Action Plan 2, the Final Action Plan, and the subrecipient agreement with Grand Street

Settlement, Inc. in order to provide \$1.6 million of available Job Creation and Retention Program funds to assist Grand Street Settlement with its project shortfall. Mr. Ciniello provided a brief update on the project status and added that the funds will supplement the previously authorized \$2.5 million LMDC grant.

Hearing no response to a call for questions or comments from the Directors and the Chair again noting that no comments were received from the public, upon motion duly made and seconded, the following resolution was unanimously adopted:

Authorization to Amend Partial Action Plan 2, the Final Action Plan, and the Subrecipient Agreement with Grand Street Settlement, Inc.

RESOLVED, that the Corporation is hereby authorized to amend Partial Action Plan 2 and the Final Action Plan by reducing the Partial Action Plan 2 allocation for the Job Creation and Retention Program by \$1,600,000, and increasing the Community Enhancement Fund allocation in the Final Action Plan by \$1,600,000 for Grand Street Settlement, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the Corporation is hereby authorized to amend its subrecipient agreement with Grand Street Settlement, Inc. by adding \$1,600,000 in funds, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to submit for public comment and review by the federal Department of Housing and Urban Development (“HUD”) the Amended Action Plans, as may be required; and be it

FURTHER RESOLVED, that the President of the Corporation or his designee shall be authorized to make such changes to the Amended Action Plans as may be necessary or appropriate to comport with applicable HUD requirements and to reflect any public comments solicited and received thereon; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to take any such action and to execute such instruments as may be necessary or appropriate to effect the foregoing.

FURTHER RESOLVED, that all such actions previously taken in furtherance of the foregoing by the Corporation's employees, Officers or Directors are hereby ratified and approved in all respects.

* * *

There being no further business, the meeting was adjourned at 11:13 a.m.

Respectfully submitted,

Debbie Royce
Corporate Secretary

**REQUEST FOR CONDITIONAL DESIGNATION OF DEVELOPER, AUTHORIZATION TO TAKE
RELATED ACTIONS**

Summary of Request

LMDC staff requests the Board of Directors' approval for the conditional designation of the Silverstein Properties Inc. and Brookfield Properties as the development team ("Developer") to redevelop Site 5 at the World Trade Center Site.

Background

In 2004, the LMDC Board approved the World Trade Center Memorial and Redevelopment Plan (the "WTC Plan") and adopted the General Project Plan for the World Trade Center Memorial and Cultural Program to support the implementation of the WTC Plan. The WTC Plan was subsequently modified, and related amendments to the GPP were approved by the Board in early 2007 (the General Project Plan as approved on June 2, 2004, and amended on February 14, 2007, together are referred to here as the "GPP").

There are two components to the WTC Plan. The first is a "Memorial Program," carried out by LMDC, which included the construction of a Memorial and Memorial Museum (completed), and the planning and construction of other improvements to complement further redevelopment in the immediate area. The second component is a "Redevelopment Program," carried out by the Port Authority of New York and New Jersey ("Port Authority"), which includes commercial and retail space, open space areas, and other improvements. LMDC works closely with the Port Authority to effectuate the Redevelopment Program.

Pursuant to the WTC Plan, LMDC acquired and cleared real property identified in the GPP as 130 Liberty Street and 140 Liberty Street, the site of the former Deutsche Bank building that had been irrevocably damaged in the 9/11 terrorist attacks. LMDC never intended to retain long-term ownership of 130 and 140 Liberty Street, as it was always LMDC's intention to transfer ownership of its holdings on the new World Trade Center site for eligible uses in support of long-term recovery. It should be noted that upon completion of this transaction the Port Authority will be made whole and the Port Authority will release from escrow the lease and purchase option to the Memorial and Museum.

Because the Port Authority owned the portion of the WTC site that was best suited for the Memorial Program, LMDC and Port Authority agreed to an exchange of real property interests. Pursuant to a Memorandum of Understanding dated February 1, 2006, among LMDC, Port Authority and The World Trade Center Memorial Foundation, Inc. (the "2006 MOU"), LMDC agreed to transfer to Port Authority a real property interest in and to 130 Liberty Street and 140 Liberty Street in the form of either a fee or ground-lease equivalent for purposes of fulfilling the Redevelopment Program, in exchange for Port Authority providing a long-term lease with a purchase option to LMDC or its designee for Port Authority-owned property to effectuate the Memorial Program, specifically the Memorial and Memorial Museum and the Performing Arts Center. The GPP states:

Generally, it is anticipated that the Port Authority will own the [World Trade Center] Site ... except for the portions of the Site allocated for the Memorial Program, in which LMDC, The World Trade Center Memorial Foundation, Inc. or

another designee of LMDC will hold an appropriate real property interest, and certain streets or interests in streets, which will be owned by the City.

In the first phase of this exchange, completed in 2017 and 2018, LMDC's designee, World Trade Center Performing Arts Center Inc., entered a lease with a purchase option for the site of the Performing Arts Center, which is part of the Memorial Program under the GPP. Port Authority obtained title to discreet portions of the 130 and 140 Liberty Street parcels that were necessary to complete the below-grade WTC Vehicle Security Center at and above street level, public open space known as Liberty Park, and the St. Nicholas National Shrine at the World Trade Center, all of which are part of the Redevelopment Program. The 2017 transfer to Port Authority explicitly excluded that portion of 130 Liberty Street that is labeled as "Tower 5" on the GPP Site Plan ("Site 5"), which was agreed to be transferred to Port Authority for redevelopment in the second phase of the planned exchange.

In the second phase of the exchange, LMDC's designee, National September 11 Memorial & Museum (fka The World Trade Center Memorial Foundation, Inc.), would enter a lease with a purchase option for the site of the Memorial and Museum, and the Port Authority would obtain title to Site 5 for commercial development. The Memorial and Museum lease and purchase option has been executed and is being held in escrow pending conveyance of Site 5. However, the transfer of Site 5 to Port Authority did not occur simultaneously.

While the GPP currently contemplates development of a commercial office tower and retail space on Site 5, in July 2017 LMDC and Port Authority agreed to analyze a mixed-use development scenario in order to ensure the site maximized its market potential and in response to community sentiment at the time for more diversified uses at the WTC site. In February 2019, LMDC, Port Authority and Empire State Development ("ESD") entered into an MOU (the "2019 MOU") (acknowledged by the City of New York), providing that the parties would jointly issue a Request for Proposals ("RFP") that would allow for commercial proposals consistent with the current GPP as well as residential or mixed-use proposals that would require modification of the GPP.

In furtherance of the parties' commitment to appropriately compensate Port Authority per the 2006 MOU, the parties determined that with respect to any Site 5 disposition proceeds, Port Authority would be due all amounts up to an established Commercial Appraised Value to make the Port Authority whole for the previous land swap.¹

RFP and Selection Process

On June 26, 2019 LMDC/ESD and Port Authority jointly issued a Request for Proposals (the "RFP") to solicit proposals for development of Site 5 either as a commercial office tower or as a mixed-use building including residential units, including a required affordable component consistent with the requirements of NYC's Mandatory Inclusionary Housing Program (the "Project"). Proposals were received in September 2019 and evaluated by a Selection Committee comprising LMDC and Port Authority representatives.

¹ The 2019 MOU provides that either LMDC or ESD will receive up to a \$1,000,000 fee from the Site 5 disposition proceeds for costs, including staff time, incurred in administering the Site 5 RFP process and amending the GPP, environmental, and other approval processes.

After reviewing the materials submitted, interviewing each firm, and requesting clarifications as necessary, the Selection Committee provided scores for each of the following weighted criteria, on a scale of 1 to 10 (with 1 being the lowest and 10 being the highest). The criteria were provided to respondents in the RFP. (Note: the Diversity Practices section was scored by ESD's MWBE team rather than the Selection Committee since this criterion has specific statutory definitions and requirements.)

A. Financial Proposal (50%)

- Competitiveness of the proposed Residential Price, Commercial Price, or the present value of the proposed Commercial Ground Rent Offer discounted at a discount rate of 6.25% and financial terms
- Financial feasibility of the Project

B. Project Program, Design and Community Benefits (20%)

- Proposed development plan's program of uses, site plan, project design (including attractiveness and buildability), and incorporation of sustainable building practices.
- Benefits provided to the surrounding communities, including but not limited to economic impact, public uses, amenities and job creation

C. Respondent Experience and Execution (20%)

- Experience, financial capabilities and qualifications of Respondent to develop, finance, operate and manage projects of similar size and nature
- Expediency of proposed construction commencement and completion

D. Diversity Practices (10%)

- Respondent's Diversity Practices based upon the contents of the Diversity Practices Questionnaire

Based on these metrics, the proposal submitted by the Silverstein Properties Inc. and Brookfield Properties team achieved the highest weighted score. All proceeds except for a \$1 million fee to be paid to ESD/LMDC for project administration costs will be paid to Port Authority.

Proposed Project Terms

Subject to requisite approvals, the Developer would redevelop Site 5 in accordance with the following terms:

- Commitment to a 99-year lease, with a schedule of good faith deposits and rental payments to Port Authority.²

² Because the Port Authority cannot own residential property at the World Trade Center Site, LMDC anticipates, subject to all requisite approvals, transferring ownership interest in the property to Empire State Development who would then enter into the lease with selected Developer. All rental payments would be provided to Port Authority.

- Commitment to construct a Class A mixed-use building of approximately 1.56 million Gross Square Feet (~1.345 million Zoning Square Feet (ZSF) equivalent), the components of which will include:
 - ~1.1MM ZSF of rental residential units, (25% of which will be permanently affordable to households earning at or below an average of 50% of Area Median Income);
 - ~177,000 ZSF of office space;
 - ~11,000 ZSF of community facility space;
 - ~51,000 ZSF physical culture establishment (i.e., gym); and
 - ~6,800 ZSF of retail.
- Commitment to achieve an overall goal of 30% MWBE participation and a 6% goal for Service-Disabled Veteran Owned Businesses (“SDVOB”) during construction.
- Commitment to pay prevailing wage during construction.
- Commitment to pay all costs associated with the transaction.

Recommendation

As outlined above, multiple past agreements define strict parameters for the Site 5 disposition. The LMDC Board approved the 2007 GPP amendment which anticipated that Port Authority would own Site 5, and Port Authority has relied on this plan in carrying out the transfer of certain of its property interests to the Memorial and Memorial Museum and the Performing Arts Center.

That said, while the primary purpose of the disposition since the 2006 MOU has been to make Port Authority whole for the land swap that made possible the Memorial Program, LMDC ensured during negotiations around the RFP that the financial offer was not the only criterion for selection of a Developer for Site 5. There are meaningful community benefits provided by the Project, including affordable housing with deep levels of affordability, a community facility, high-quality and sustainable design, new job creation, and meaningful participation opportunities for Minority- and Women-Owned Business Enterprises (MWBEs) and Service-Disabled Veteran-Owned Businesses. This Project will complete the WTC site in a way that supports the ongoing revitalization of Lower Manhattan, with a Developer with the capacity, experience and commitment to ensure the Project is completed in a timely manner.

In sum, LMDC staff recommends that the Directors conditionally designate the Silverstein Properties Inc. and Brookfield Properties team as the Developer of Site 5 at the World Trade Center substantially on the terms set forth in these materials. The proposed Project and any contractual documentation remain subject to all public approvals processes as required by law, including but not limited to future LMDC Board action related to necessary modifications of the GPP, associated environmental review and findings, and property disposition, as well as U.S. Department of Housing and Urban Development approvals, as required.



Lower Manhattan
Development
Corporation

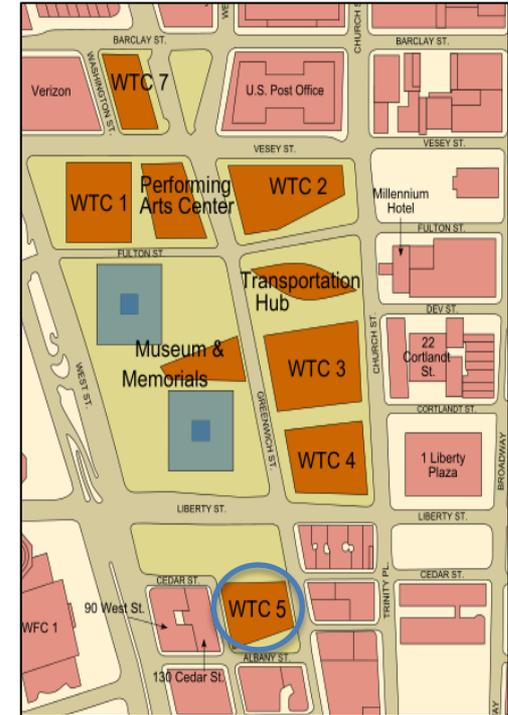
THE PORT AUTHORITY OF NY & NJ

WTC Site 5 Redevelopment

Conditional Designation – Highest Scoring Proposal

RFP Background

- **Feb 2006:** MOU between LMDC and Port Authority to swap Southern Site (LMDC owned) for Museum & Memorial/PAC Sites (Port owned)
- **Feb 2019:** MOU between LMDC and Port Authority to RFP Site 5 for commercial or residential
- **June 2019:** Site 5 RFP released
 - Commercial or mixed use (*note: residential requires modification to the WTC General Project Plan*)
 - Up to 1.345 million ZSF and 900' tall (per WTC GPP)
- **Sept 2019:** Received 5 proposals



WTC Site 5

RFP Selection Criteria

Financial Proposal: 50%

- Competitiveness of proposed Sales Price or Commercial Ground Rent Offer
- Financial feasibility of the Project

Project Program, Design and Community Benefits: 20%

- Proposed program of uses, site plan, project design (including attractiveness and buildability), and incorporation of sustainable building practices
- Benefits to the surrounding communities, including but not limited to economic impact, public uses, amenities and job creation

Respondent Experience and Execution: 20%

- Experience, financial capabilities and qualifications of Respondent to develop, finance, operate and manage projects of similar size and nature
- Expediency of proposed construction commencement and completion

Diversity Practices: 10%

- Respondent's Diversity Practices based upon the contents of the Diversity Practices Questionnaire

Highest Scoring Proposal: Program

- \$1.15B mixed-use development
- ~1.56MM Gross SF (~1.345 ZSF equivalent)
- ~1.2MM GSF Residential Rental*
 - ~1,325 total units
 - ~330 affordable units (25% at or below 50% avg AMI)
- ~190,000 GSF Office
- ~12,000 GSF Community Facility
- ~55,000 GSF Physical Culture Establishment (gym)
- ~7,000 GSF Retail
- 99-year lease

**Requires modification to the World Trade Center General Project Plan*



Highest Scoring Proposal: Community



Affordable Housing:

- 25% of units will be affordable at or below an average of 50% Area Median Income (AMI)
- At least 10% of the affordable units will be leased to households at or below 40% AMI
- At least an additional 10% of the residential units will be leased to households at or below 60% AMI
- None of the affordable units will be leased to households above 80% AMI
- Units will be permanently affordable through a regulatory agreement

Community Facility:

- LOIs from three prominent not-for-profits
- Will work with community to select final use

Job Opportunities:

- ~5,420 direct construction jobs
- ~1,905 permanent jobs
- 30% MWBE and 6% SDVOB contracting goals
- Prevailing wage

Highest Scoring Proposal: Development



Leads:

- Silverstein Properties
Owns/manages 2,270 du's / 16MM SF commercial
- Brookfield Properties
Owns/manages 17,000 du's / 450MM SF commercial

Affordable Housing Partners and Operators:

- Omni New York LLC
Own/manages ~12,500 affordable du's
- Dabar Development Partners (MWBE)

Architect:

- Kohn Pedersen Fox

MWBE Advisor:

- McKissack & McKissack

Preliminary Timeline

- Feb 2021: Conditional designation
 - Term sheet execution
 - SEQRA/NEPA environmental review and GPP modification commencement
- Fall 2021: LMDC Board takes action on MGPP, makes SEQRA/NEPA determinations and authorizes disposition process for Site 5 to ESD / public hearing & comment period
- Winter 2021/22: LMDC Board considers public comments, takes action on MGPP and disposition of Site 5 to ESD
- Spring/Summer 2022: Final public approvals